

No. 10886

United States
Circuit Court of Appeals
For the Ninth Circuit.

FEDERAL FARM MORTGAGE CORPORA-
TION, a corporation,

Appellant,

vs.

HENRY ANDREW PAULSEN,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the District of Nevada

FILED

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PAUL F. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD

PERCY A. SMITH, ESQ.,

2180 Milvia Street,
Berkeley, California,

For the Appellant, Federal Farm Mortgage
Corporation.

MESSRS. WITHERS & EDWARDS,

153 North Virginia Street,
Reno, Nevada,

For the Appellee, Henry Andrew Paulsen.
[1*]

In the District Court of the United States,
In and For the District of Nevada

No. A-33-A in Bankruptcy

In the Matter of

HENRY ANDREW PAULSEN,

Bankrupt.

DEBTOR'S PETITION

To the Honorable Frank H. Norcross, Judge of the
above entitled Court:

The petition of Henry Andrew Paulsen of Churchill County, Fallon, Nevada, and District of Nevada, respectfully represents:

That he is primarily bona fide personally engaged in producing products of the soil and in the raising of hogs; that such operations occur in Churchill County, Nevada, within said judicial District; that he is unable to meet his debts as they mature and that he desires to effect a composition or extension of time to pay his debts under Section 75 of the Bankruptcy Act.

That the schedule hereto annexed, marked "A", and verified by your petitioner's oath, contains a full and true statement of all his debts, and the names and places of residence of his creditors, and such further statements concerning said debts as are required by the provisions of said Act.

That the schedule hereto annexed, Marked "B", and verified by your petitioner's oath, contains an accurate inventory of all his property, both real and personal, and such further statements concerning

said property as are required by the provisions of said Act. [2]

Wherefore, your petitioner prays that his petition may be approved by the Court and proceedings had in accordance with the provisions of said section.

HENRY ANDREW PAULSEN

Petitioner

PAINTER, WITHERS &

EDWARDS

By L. S. WITHERS

Attorneys for Petitioner

I, Henry Andrew Paulsen, the petitioning debtor mentioned and described in the foregoing petition, do hereby make solemn oath that the statements contained therein are true according to the best of my knowledge, information and belief.

HENRY ANDREW PAULSEN

Petitioner

Subscribed and Sworn to before me this 6th day of March, 1939.

[Seal]

ADELINA PAGNI

Notary Public in and for the County of Washoe,
State of Nevada. [3]

Form 2-4

Schedule A

STATEMENT OF ALL DEBTS OF BANKRUPT

Schedule A-1

Statement of all Creditors who are to be paid in Full, or to
Whom Priority is Secured by Law.

	Amount
1. Taxes and debts due and owing to the United States for the year 1938, approximately.....	\$ 125.00
2. Taxes due and owing to the State of Nevada for the year 1938, approximately	125.00
3. Wages due workmen, clerks, or servants to an amount not exceeding \$600 each earned within three months before filing the petition: None	none
4. Other debts having priority by law: None.....	none
Total.....	\$ 250.00

HENRY ANDREW PAULSEN
Petitioner

These schedules must be executed in triplicate. [4]

Form 3-4

Schedule A-2

CREDITORS HOLDING SECURITIES

(N. B.—Particulars of securities held, with dates of same, and when they were given, to be stated under the names of the several creditors, and also particulars concerning each debt, as required by Acts of Congress relating to bankruptcy and whether contracted as partner or joint contractor with any other person, and if so, with whom.)

This schedule includes liens, pledges, mortgages, notes, etc.

Amount of Debts

Walter C. Dean, Frank R. Hodgson and H. W. Brown-
ing, as trustees under a trust deed recorded Septem-
ber 28, 1935, in Book 15, page 55 of Mortgages in
the office of the Recorder of Churchill County, Nev-
ada, to secure an indebtedness of \$5500.00, plus ac-
cumulated interest and taxes, approximately.....\$7,000.00

I. H. Kent Company, Fallon, Nevada, two (2) promissory notes totaling \$1,000.00, plus accumulated interest, secured by a mortgage upon all hogs, one (1) Case harvester, and a second mortgage on a 1935 Oldsmobile sedan	1,000.00
Mountain Finance Company, Reno, Nevada, secured by a first mortgage on a 1935 Oldsmobile sedan.....	244.30
Total.....	\$8,244.30

HENRY ANDREW PAULSEN
Petitioner.

Note.—Give street and number address where possible. [5]

Form 4-8

Schedule A-3

CREDITORS WHOSE CLAIMS ARE UNSECURED

(N. B.—When the name and residence (or either) of any drawer, maker, indorser, or holder of any bill or note, etc., are unknown, the fact must be stated, and also the name and residence of the last holder known to the debtor. The debt due to each creditor must be stated in full, and any claim by way of off-set stated in the schedule of property.)

	Amount
St. Mary's Hospital, Reno, Nevada.....	\$ 122.65
Dr. Byron H. Caples, Reno, Nevada.....	50.00
Dr. Earl Creveling, Reno, Nevada.....	5.00
Dr. A. L. Stadtherr, Reno, Nevada.....	195.00
Dr. H. W. Sawyer, Fallon, Nevada.....	42.00
Dr. H. K. Wilson, Fallon, Nevada.....	35.00
Fallon Flour Mill Co., Fallon, Nevada.....	109.35
Shell Oil Company, Fallon, Nevada.....	21.53
Fallon, Eagle, Fallon, Nevada	25.00
Eli, Cann, Attorney, Fallon, Nevada.....	60.00
Joe Mateas, Fallon, Nevada	50.00
Kolstrup Garage, Fallon, Nevada	5.50
Dr. Da Costa, Reno, Nevada.....	25.00
Dr. Piersal, X-Rays, Reno, Nevada.....	15.00

J. D. Mariner Music Co., Reno, Nevada.....	15.00
Mary Whiteman, Fallon, Nevada.....	200.00
<hr/>	
Total.....	\$ 976.03

HENRY ANDREW PAULSEN
Petitioner.

Note.—Give street and number address where possible. [6]

Form 5-4

Schedule A-4

LIABILITIES ON NOTES OR BILLS DISCOUNTED
WHICH OUGHT TO BE PAID BY DRAWERS,
MAKERS, ACCEPTORS, OR INDORSERS.

(N. B.—The dates of the notes or bills, and when due with the names, residences, and the business or occupation of the drawers, makers or acceptors thereof, are to be set forth under the names of the holders. If the names of the holders are not known, the name of the last holder *known* to the debtor shall be stated, and his business and place of residence. The same particulars as to notes or bills on which the debtor is liable as indorser.)

	Amount
None	none
<hr/>	
Total.....	none

HENRY ANDREW PAULSEN
Petitioner.

Note.—Give street and number address where possible. [7]

Form 6-4

Schedule A-5

ACCOMMODATION PAPER

(N. B.—The dates of the notes or bills and when due, with the names and residences of the drawers, makers and acceptors thereof, are to be set forth under the names of the holders; if the bankrupt be liable as drawer, maker or acceptors or endorser

thereof, it is to be stated accordingly. If the names of the holders are not known, the name of the last holder known to the debtor should be stated, with his residence. Same particulars as to other commercial paper.)

	Amount
None	none
Total.....	none

HENRY ANDREW PAULSEN

Petitioner

OATH TO SCHEDULE A

United States of America

District of Nevada—ss.

On this 6th day of March, A.D. 1939, before me personally came Henry Andrew Paulsen, the person mentioned in and who subscribed to the foregoing Schedule A (1, 2, 3, 4, 5), and who being by me first duly sworn did declare the said Schedule to be a true statement of all his debts in accordance with the Acts of Congress relating to bankruptcy.

HENRY ANDREW PAULSEN

Subscribed and sworn to before me this 6th day of March, 1939.

[Seal]

ADELINA PAGNI

Notary Public in and for the County
of Washoe, State of Nevada. [8]

Form 7-4

Schedule B

STATEMENT OF ALL PROPERTY OF BANKRUPT

Schedule B-1—Real Estate

Estimated Value

All that certain piece or parcel of land situated in the County of Churchill, State of Nevada, more particularly described as follows:

The Northwest quarter of Section 12, Township 19 North, Range 30 East, Mount Diablo Base and Meridian, containing 160 acres more or less.

Subject to existing rights of way of record.

Together with all rights of every kind and nature,
however, evidenced, to the use of water, ditches
and canals for the irrigation of said premises....\$10,000.00

Total.....\$10,000.00

HENRY ANDREW PAULSEN,
Petitioner.

These schedules must be executed in triplicate. [9]

Schedule B-2—Personal Property

A. Cash on hand	\$ 45.00
B. Bills of exchange, promissory notes, or securities of any description (each to be set out separately)....	none
C. Stock in trade in.....business of.....at..... of the value of: None	none
D. Household goods and furniture, household stores, wearing apparel and ornaments of the person, viz.: Household furniture, \$150.00; Wearing ap- parel, \$50.00	200.00
E. Books, prints and pictures, viz.: None	none
F. Horses, cows, sheep and other animals (with num- ber of each), viz.: 19 sows, 1 boar, 7 weanling pigs	433.00
G. Carriages and other vehicles, viz.: 1 - 1935 Olds- mobile sedan	400.00
H. Farming stock and implements of husbandry, viz.: Farm implements, \$400.00; blacksmith tools, \$50.00	450.00
I. Shipping and shares in vessels, viz.: None.....	none
K. Machinery, fixtures, apparatus and tools used in business, with the place where each is situated, viz.: None	none
L. Patent, copyrights and trade-marks, viz.: None.....	none
M. Goods or personal property of any other descrip- tion, with the place where each is situated, viz.: None	none

HENRY ANDREW PAULSEN,
Petitioner.

(Full sets of schedule blanks must be filed. If there are no items applicable to any particular blanks, such fact should be stated in said blank. Each schedule sheet must be signed.)—
Rule 14. [10]

Form 9-4

Schedule B-3—Choses in Action

A. Debts due petitioner on open account: Chas. Maxwell, Fallon, Nevada, open account.....	\$ 47.00
B. Stock in incorporated companies, interest in joint stock companies, and negotiable bonds: None....	none
C. Policies of insurance: None	none
D. Unliquidated claims of every nature with their estimated value: None	none
E. Deposits of money in banking institutions and elsewhere: None	none
Total.....	\$ 47.00

HENRY ANDREW PAULSEN,
Petitioner. [11]

Form 10-4

Schedule B-4

Property in Reversion, Remainder or Expectancy, Including
Property Held in Trust for the Debtor or Subject to any
Power or Right to Dispose of or to Charge.

(N. B.—A particular description of each interest must be entered. If all or any of the debtor's property has been conveyed by deed of assignment, or otherwise, for the benefit of creditors, the date of such deed should be stated, the name and address of the persons to whom the property was conveyed, the amount realized from the proceeds thereof, and the disposal of the same, so far as known to the debtor.)

General Interest	Particular Description	Supposed Value of My Interest
Interest in land: None		\$ none
Personal property: None		none
Property in money, stocks, shares, bonds, annuities, etc.: None		none
Rights and powers, legacies and bequests: None		none
Property heretofore conveyed for benefit of creditors: None		none
Total.....		none

	Amount Realized from Proceeds of Property Conveyed
What portion of debtor's property has been conveyed by deed of assignment or otherwise for benefit of creditors; date of such deed, name and address of party to whom conveyed; amount realized therefrom, and disposal of same, so far as known to debtor:	none
What sum or sums have been paid to counsel, and to whom, for services rendered or to be rendered in this bankruptcy	\$ 50.00
Total.....	\$ 50.00

HENRY ANDREW PAULSEN,
Petitioner. [12]

Form 11-4

Schedule B-5

A Particular Statement of the property claimed as exempted from the operation of the acts of Congress relating to bankruptcy, giving each item of property and its valuation; and, if any portion of it is real estate, its location, description and present use.

	Valuation
Military uniform arms and equipments: None.....	\$ none

Property claimed to be exempted by State laws; its valuation; whether real or personal; its description and present use; and references given to the statute of the State creating the exemption. (See State Law)

Household furniture and wearing apparel..... 200.00

Total.....\$ 200.00

HENRY ANDREW PAULSEN,
Petitioner [13]

Form 12-4

Schedule B-6

Books, Papers, Deeds, and Writings, Relating to
Bankrupt's Business and Estate

The following is a true list of all books, papers, deeds, and writings relating to my trade, business dealings, estate, and effects, or any part thereof, which, at the date of this petition, are in my possession or under my custody and control, or which are in the possession or custody of any person in trust or me, or for my use, benefit or advantage; and also of all others which may have been heretofore, at any time, in my possession, or under my custody or control, and which are now held by parties whose names are hereinafter set forth, with the reasons for their custody of the same.

Books: None.

Deeds: None.

Papers: None.

HENRY ANDREW PAULSEN,
Petitioner.

OATH TO SCHEDULE B

United States of America
District of Nevada—ss.

On this 6th day of March, A. D. 1939, before me personally came Henry Andrew Paulsen, the person mentioned in and who subscribed to the foregoing Schedule B (1, 2, 3, 4, 5, 6) and who being by me first duly sworn, did declare *he* said Schedule to be a true statement of all his Estate, both real and personal, in accordance with the Acts of Congress relating to Bankruptcy.

HENRY ANDREW PAULSEN,

Subscribed and sworn to before me this 6th day of March, 1939.

[Seal]

ADELINA PAGNI

Notary Public in and for the County of Washoe, State of Nevada. [14]

Form 13-4

SUMMARY OF DEBTS AND ASSETS

(From the Statement of the Bankrupt in Schedules A and B.)

Schedule A—

1 (1)	Taxes and Debts due United States.....	\$ 125.00
1 (2)	Taxes due States, Counties, Districts and Municipalities	125.00
1 (4)	Other debts preferred by law.....	none
1 (3)	Wages	none
2	Secured Claims	8,244.30
3	Unsecured Claims	976.03
4	Notes and Bills which ought to be paid by other parties thereto	none
5	Accommodation Paper	none
Schedule A. Total		<u>\$ 9,470.33</u>

Schedule B—

1	Real Estate	\$10,000.00
2-a	Cash on hand	45.00
2-b	Bills, Promissory Notes and Securities.....	none
2-c	Stock in Trade	none
2-d	Household Goods, etc.	200.00
2-e	Books, Prints and Pictures.....	none
2-f	Horses, Cows and other Animals.....	433.00
2-g	Carriages and other Vehicles	400.00
2-h	Farming Stock and Implements	450.00
2-i	Shipping and Shares in Vessels.....	none
2-k	Machinery, Tools, etc.	none
2-l	Patents, Copyrights, and Trade-Marks.....	none
2-m	Other Personal Property	none
3-a	Debts due on Open Accounts	47.00
3-b	Stocks, Negotiable Bonds, etc.	none
3-c	Policies of Insurance	none

3-d	Unliquidated Claims	none
3-e	Deposits of Money in Banks and elsewhere....	none
4	Property in Reversion, Remainder, Trust, etc.	none
5	Property claimed to be exempted....	\$200.00
6	Books, Deeds and Papers	none
Schedule B, Total		\$11,575.00

HENRY ANDREW PAULSEN,
Petitioner.

[Endorsed]: Filed Mar. 6, 1939. [15]

[Title of District Court and Cause.]

ORDER

At Carson City, in said District, upon this 1st day of May, 1939:

This matter coming on to be heard upon the amendment of the petition of Henry Andrew Paulsen, requesting to be adjudged a bankrupt, as provided by Section 75, sub-section (s) of the Bankruptcy Act, and the same having been heard and considered, and it appearing to the Court that the said request should be granted;

It Is Ordered that the said Henry Andrew Paulsen be, and he is hereby, adjudged a bankrupt within the true intent and meaning of the Acts of Congress relating to bankruptcy, as provided by Section 75, sub-section (s) of the Bankruptcy Act as amended June 28, 1934, and that further proceedings be had in accordance with such section

before the Referee in Bankruptcy having jurisdiction of the case.

FRANK H. NORCROSS

United States District Judge.

[Endorsed]: Filed May 1, 1939. [16]

[Title of District Court and Cause.]

ORDER APPROVING APPRAISAL, SETTING
OFF EXEMPTIONS, AND STAYING PRO-
CEEDINGS

At Reno, Nevada, in said District, on the 5th day of February, 1940.

It appearing that the Report of the appraisers in the above entitled matter has been filed and all creditors of the bankrupt have received ten days' notice of the filing of the same and of this hearing thereon, and no written objections or exceptions having been filed thereto;

And it further appearing that the property of the bankrupt has been appraised at its then fair and reasonable market value, said appraisement is hereby approved, reserving the right to either party to file objections, exceptions and/or appeals with reference to the same within four (4) months of the date hereof as is provided in Section 75, Subsection (s) of the Bankruptcy Act.

And the Court coming now to set aside to the said bankrupt his exemptions as provided by State laws, Finds: that the bankrupt is entitled to hold as exempt, and It Is Ordered that there be set off

to him as exempt the following unencumbered property, to-wit:

All household table and kitchen furniture. [17]

All wearing apparel belonging to the bankrupt and his wife.

One (1) shot gun.

Farming utensils and implements of husbandry as shown by the inventory thereof heretofore filed herein, with the exception of the Case Harvester therein set forth.

All seed grain or vegetables actually provided, preserved or on hand for the purpose of planting or sowing at any time within the ensuing six (6) months, not exceeding in value the sum of Two Hundred Dollars (\$200.00).

One (1) boar

Twenty (20) sows

Four (4) young sows

One Hundred twenty-five (125) weaner pigs.

The Court further finds that the bankrupt is entitled to hold as exempt, and It Is Ordered that it be set off to him as exempt, his unencumbered interest or equity in the following described property, to-wit:

All that certain piece or parcel of land situated in the County of Churchill, State of Nevada, more particularly described as follows:

The Northwest quarter of Section 12, Township 19 North, Range 30 East, Mount Diablo Base and Meridian, containing 160 acres more or less.

Subject to existing rights of way of record.

Together with all rights of every kind and nature, however evidenced, to the use of water, ditches and canals for the irrigation thereof.

Which said real property has been heretofore appraised at the sum of Three Thousand Dollars (\$3,000.00), and is subject to a mortgage lien held by Walter C. Dean, Frank R. Hodgson and H. W. Browning, as trustees under a trust deed recorded September 28, 1935, in Book 15, page 55 of Mortgages, in the office of the County Recorder of Churchill County, Nevada, to secure an indebtedness of \$5500.00, plus accumulated interest and taxes.

The equity of the bankrupt in one Case Harvester and in one 1935 Oldsmobile sedan being purchased from the Mountain Finance Company of Reno, Nevada, on a conditional sales contract upon which there is now due approximately \$114.00, which said property is subject to a mortgage lien of the I. H. Kent Company of Fallon, Nevada.

It Is Further Ordered that the possession, under the [18] supervision and control of the Court, subject to all existing mortgages, liens, pledges or encumbrances, of the following described property, which the Court finds is reasonable necessary for the farming operations of the bankrupt and of which he desires to remain in possession, shall remain in the bankrupt, to-wit:

All that certain piece or parcel of land situated in the County of Churchill, State of Nevada, more particularly described as follows:

The Northwest quarter of Section 12, Township 19 North, Range 30 East, Mount Diablo Base and Meridian, containing 160 acres more or less; subject to existing rights of way of record; together with all rights of every kind and nature, however evidenced, to the use of water, ditches and canals for the irrigation thereof.

Articles of husbandry as shown by the inventory thereof heretofore filed in this proceeding.

One 1935 Oldsmobile sedan.

Hogs as shown by the bankrupt's Second Report filed herein on the 5th day of February, 1940.

Which said real property has been appraised at the sum of \$3,000.00, and which said personal property has been appraised at the sum of \$2,057.50.

It Is Further Ordered that, as provided in said Section 75, Subsection (s) of the Bankruptcy Act, the bankrupt pay rental in the sum of Five Hundred Fifty Dollars (\$550.00) to be paid annually on or before the first day of October of each year, beginning with October 1, 1940, such rental to be paid to the Referee and to be used for the payment of taxes and upkeep on the property, and the balance to be distributed among secured and unsecured creditors as may be hereafter ordered.

It Is Further Ordered that the property covered by mortgages, liens, pledges or encumbrances shall be subject to the payment of the claims of secured creditors as their interests may appear.

It Is Further Ordered that all matters of sale of unexempt perishable property or unexempt per-

sonal property not [19] reasonably necessary for the farming operations of the bankrupt, or payments to be made on the principal due and owing to any secured or unsecured creditors in addition to the rental above fixed, and other matters provided for in said Section 75 (s) not herein passed upon, are reserved for the further consideration and order of the Court.

It Is Further Ordered that all judicial or official proceedings in any court or under the direction of any official against the bankrupt or his property be stayed for a period of three (3) years, or until the further order of the Court.

It Is Further Ordered that the bankrupt be and he is hereby authorized and instructed to sell from time to time as deemed advisable by him, certain of the weaner pigs now in his possession as shown by his Second Report filed herein on the 5th day of February, 1940, for the purpose of paying to the Mountain Finance Company the balance due on the 1935 Oldsmobile sedan being purchased by the bankrupt.

The foregoing Order, and each and every part thereof, is expressly conditioned upon the confirmation and approval of the Hon. Frank H. Norcross, Judge of the above entitled Court.

/s/ JAMES L. HASH

Referee in Bankruptcy and
Conciliation Commissioner.

The foregoing Order is hereby ratified, approved and confirmed, this 25th day of March, 1940.

/s/ FRANK H. NORCROSS

U. S. District Judge. [20]

Painter, Withers & Edwards

Attorneys at Law

153 North Virginia Street

Reno, Nevada

Memo to Mr. James L. Hash:

This order is based upon and meticulously follows Form No. 533 as shown in the 1939 supplement to Remington on Bankruptcy, Volume 9.

Mr. Remington indicates that the entire order should be signed by the Referee and that the consent of the District Court is not necessary. However, reading Section (s) of the Bankruptcy Act itself, indicates that there is some question as to whether or not the order should be entered by the District Judge. I have consequently conditioned the order upon its approval by Judge Norcross, so that there will be no question as to its validity, or that you have exceeded your authority.

Very truly yours,

T. L. WITHERS

TLW:f

[Endorsed]: Filed Mar. 25, 1940. [21]

[Title of District Court and Cause.]

PETITION AND MOTION

Your petitioner, the Federal Farm Mortgage Corporation, a corporation, respectfully represents to this Honorable Court:

I.

That the Federal Farm Mortgage Corporation is now and at all times hereinafter mentioned has been a corporation organized and existing under and by virtue of the laws of the United States of America.

II.

That on or about the 3rd day of September, 1935, Henry A. Paulsen and Viola S. Paulsen, also known as Viola Paulsen, his wife, made, executed, and delivered to the Land Bank Commissioner a promissory note in the principal amount of \$5,500.00, secured by a deed of trust on certain real property situate in the County of Churchill, State of Nevada, more particularly described as follows:

The Northwest quarter of Section 12, Township 19 North, Range 30 East, Mount Diablo Base and Meridian; containing 160 acres, more or less,

that said deed of trust was duly executed, acknowledged and certified so as to entitled it to be recorded, and was, on September 28, 1935, recorded in Book 15 of Mortgages, at page 55, in the office of the County Recorder of Churchill [22] County, Nevada; that said deed of trust is a first lien on the

property described therein; that due to defaults under the terms of said note and deed of trust, said deed of trust was called for foreclosure on March 24, 1938; that the total delinquent indebtedness under said note and deed of trust, as of March 29, 1943, is the sum of \$7,801.79.

III.

That through an Act of Congress, the Federal Farm Mortgage Corporation has succeeded to the interest of the Land Bank Commissioner and is now the owner and holder of the note and deed of trust described in Paragraph II hereof.

IV.

That The Federal Land Bank of Berkeley is the agent and attorney-in-fact for the Federal Farm Mortgage Corporation.

V.

That on or about the 6th day of March, 1939, Henry Andrew Paulsen filed a petition, praying that he be afforded an opportunity to effect a composition or extension of time to pay his debts under Section 75 of the Bankruptcy Act; that the first meeting of creditors was held on the 5th day of April, 1939, before James L. Hash, Conciliation Commissioner.

VI.

That the debtor failed to effect a composition or extension with his creditors, and on or about the first day of May, 1939, was adjudicated a bankrupt under Section 75 (s) of the Bankruptcy Act; that

the first meeting of his creditors was held before the Referee on the 28th day of June, 1939.

VII.

That on or about the 25th day of March, 1940, James L. Hash, Referee in Bankruptcy and Conciliation Commissioner, made and entered an order staying proceedings for three years and fixing the rental as follows:

“It is further ordered that, as provided in said Section 75, Subsection (s) of the Bankruptcy Act, the bankrupt pay rental in the sum of Five Hundred Fifty Dollars (\$550.00) to be paid annually on or before the first day of October of each year, beginning with October 1, 1940, such rental to be paid to the Referee and to be used for the payment of taxes and upkeep on the property, and the balance to be distributed among secured and unsecured creditors as may be hereafter ordered.” [23]

VIII.

That the three-year stay of proceedings, as provided in the order of March 25, 1940, signed by James L. Hash, Referee in Bankruptcy and Conciliation Commissioner, terminated on March 25, 1943; that the bankrupt failed to pay the appraised value into Court during the three-year stay or at the end thereof; that the bankrupt failed to ask for a reappraisal of his property during the three-year stay or at the end thereof; that the time for the liquidation of the bankrupt's estate under the provisions of the general bankruptcy law has now arrived.

Wherefore, petitioner prays and moves:

(1) That, at a time and place to be fixed by the Court, a general meeting of creditors of the above named bankrupt be held and that at least a ten-day notice thereof be given to the creditors listed in the bankrupt's schedules by mail to their respective addresses as they appear in the list of creditors of the bankrupt or as filed with the papers herein by the creditors.

(2) That an order to show cause be issued herein, requiring the bankrupt to appear at the time and place designated by the Court for said meeting of creditors to show cause, if any he has, why this Court should not order the appointment of a trustee,

(3) That, if it thereupon appears to this Court that the appointment of a trustee is proper, that this Court order the appointment of a trustee to sell or otherwise dispose of the property of the estate as provided for in the National Bankruptcy Act, and

(4) For such other, further or different relief as to this Court may seem meet and proper in the premises.

Dated this 29th day of March, 1943.

PERCY A. SMITH

Attorney for the Federal
Farm Mortgage Corporation
Address: 2180 Milvia Street
Berkeley, California. [24]

State of California

County of Alameda—ss.

Wm. H. Woolf, being first duly sworn, deposes and says:

That he is the Assistant Vice President of The Federal Land Bank of Berkeley, attorney-in-fact for the Federal Farm Mortgage Corporation, the petitioner named in the foregoing petition, and is duly authorized to make this affidavit on its behalf, and that the statements contained in said petition are true according to the best of his knowledge, information and belief.

WM. H. WOOLF

Subscribed and sworn to before me, this 31st day of March, 1943.

[Seal]

B. W. JACKSON

Notary Public in and for said
County and State.

My commission expires: October 17, 1944.

[Endorsed]: Filed Sept. 22, 1944. [25]

[Title of District Court and Cause.]

PETITION FOR REAPPRAISAL

Comes now Henry Andrew Paulsen, above named bankrupt, and respectfully says:

I.

That he was on the 1st day of May, 1939 duly adjudged a bankrupt under Section 75 (s) of the

National Bankruptcy Act and that on or about the 25th day of March, 1940 a three year stay of proceedings was duly ordered by James L. Hash, Conciliation Commission, acting as Referee.

II.

That during said three years stay of proceedings your petitioner was ordered to pay the sum of Five Hundred Fifty (\$550.00) Dollars per year as the reasonable rental value of said property and during said period your petitioner has made all of said payments and has complied with each and every order of the Conciliation Commissioner. [26]

Wherefore your petitioner prays that in accordance with Section 75 (s) of the National Bankruptcy Act, as interpreted by the United States Supreme Court [27] in the case of Wright v. Union Central Insurance Company, 85 Law Ed. 184, that said property be revalued or reappraised and that your petitioner be given the opportunity of purchasing the same upon the payment of said reappraised value less credits for payments heretofore made by your petitioner to the Conciliation Commission as herein above set forth.

Dated: This 2nd day of August, 1943. .

HENRY ANDREW PAULSEN

Petitioner

State of Nevada

County of Churchill—ss.

I, Henry Andrew Paulsen, the petitioning debtor

mentioned and described in the foregoing, do hereby make solemn oath that the statements contained therein are true according to the best of my knowledge, information and belief.

HENRY ANDREW PAULSEN

Subscribed and sworn to before me this 2nd day of August, 1943.

[Notarial Seal] ELI CANN

Notary Public in and for the County of Churchill,
State of Nevada.

[Endorsed]: Filed Sept. 22, 1944 [28]

[Title of District Court and Cause.]

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

This matter coming on regularly to be heard on the 27th day of April, 1943, at the hour of 10:00 o'clock A.M., before the undersigned James L. Hash, on the petition and motion of the Federal Farm Mortgage Corporation dated March 29, 1943, and upon the order to show cause issued out of this Court pursuant thereto, and upon notice of meeting of creditors dated April 14, 1943, and Percy A. Smith appearing for the Federal Farm Mortgage Corporation, and Henry Andrew Paulsen and Viola S. Paulsen appearing in person and by their attorney, T. L. Withers, and no other creditors appearing, the matter was proceeded with, and the Court having seen and heard the evidence pro-

duced in support of said petition and motion, and it appearing to the Court, the Court finds that due and proper service of said order to show cause and petition was made on the bankrupt, and that notice of meeting of creditors was on the date thereof mailed to each of the creditors listed in the bankrupt's schedules on file herein, and to all other creditors who have appeared herein, and being fully advised, the Court finds the following facts to be true:

I.

That on or about the 6th day of March, 1939, Henry Andrew Paulsen filed [45] his petition praying that he be afforded an opportunity to effect a composition or extension of time to pay his debts under Section 75 of the National Bankruptcy Act.

II.

That the debtor failed to effect a composition or extension with his creditors, and on or about the first day of May, 1939, was duly adjudicated a bankrupt under Section 75 (s) of the National Bankruptcy Act.

III.

That the said bankrupt was at and before the filing of his petition justly and truly indebted to petitioner, the Federal Farm Mortgage Corporation; that said indebtedness is evidenced by a promissory note, secured by a deed of trust executed by Henry A. Paulsen and Viola S. Paulsen, also known as Viola Paulsen, his wife, in favor of the

Land Bank Commissioner, dated September 3, 1935, and recorded on September 28, 1935, in Book 15 of Mortgages, at page 55, in the office of the County Recorder of Churchill County, Nevada; that said deed of trust covers the following described real property in the County of Churchill, State of Nevada, to-wit:

The Northwest quarter of Section 12, Township 19 North, Range 30 East, Mount Diablo Base and Meridian; containing 160 acres, more or less.

IV.

That on or about the 25th day of March, 1940, a three-year stay of proceedings under Section 75 (s) was signed by James L. Hash, Conciliation Commission acting as Referee; that said three-year stay terminated on March 25, 1943; that the moratorium provided in Section 75 (s) has expired; that the bankrupt failed to pay the appraised value into Court during the three-year stay or at the end thereof; that the bankrupt failed to ask for a reappraisal of his property during the three-year stay; that the time for liquidation of the bankrupt's estate under the provisions of the National Bankruptcy Act has now arrived.

CONCLUSIONS OF LAW

As conclusions of law from the foregoing findings of fact, this Court [46] concludes that it should now order the appointment of a trustee

in accordance with the provisions of Section 75 (s) (3) of the National Bankruptcy Act, and that said trustee, upon qualifying, shall proceed to sell or otherwise dispose of the property hereinabove described, in accordance with the provisions of the National Bankruptcy Act.

Wherefore, by reason of the aforesaid findings of fact and conclusions of law, It Is Ordered that George W. Forbes be and he is hereby appointed trustee herein, and his bond is hereby fixed in the sum of \$2,500;

It Is Further Ordered that upon qualification of said trustee, or any other person who may hereafter be appointed trustee should the said George W. Forbes fail to qualify, he shall proceed at once to sell or otherwise dispose of the property hereinabove described, in accordance with the provisions of the National Bankruptcy Act.

Dated this 22 day of December, 1943.

(s) JAMES L. HASH

Conciliation Commissioner.
acting as Referee.

[Endorsed]: Filed Sept. 20, 1944. [47]

[Title of District Court and Cause.]

ORDER GRANTING PETITION

The order directing the bankrupt to appear before the undersigned and show cause why the trustee

should not abandon certain real property as burdensome to the estate, came on regularly for hearing pursuant to due and legal notice thereof, on the 16th day of March, 1944, in room No. 14, Washoe County Library Building, Reno, Nevada. The trustee, George W. Forbes, appeared in person; the bankrupt, Henry Andrew Paulsen, appeared by his attorneys, Messrs. Withers and Edwards; the Federal Farm Mortgage Corporation appeared by its attorney, Percy A. Smith, and the I. H. Kent Co. appeared by its attorneys, Messrs. Withers and Edwards.

Objection to the hearing of said show cause order was made by the bankrupt upon the ground that the bankrupt had heretofore, and on the 23rd day of September, 1943, filed a petition for reappraisal, and that said petition had not been passed upon, and that until said petition was heard the trustee should not be permitted to disclaim said property.

Upon stipulation of Percy A. Smith and Messrs. Withers and Edwards, it was agreed that this petition be worthwith heard and passed upon by the Referee. The Referee having considered the arguments presented, and the records in the case, It Is Hereby Ordered:

1. That the bankrupt's petition for a reappraisal be granted.

2. That the bankrupt, Henry Andrew Paulsen, designate one appraiser; that the Federal Farm Mortgage Corporation, a secured creditor, designate a second appraiser; and that the two apprais-

ers so designated appoint a third appraiser, [48] and that said appraisers forthwith reappraise said property for the purpose of ascertaining the actual value thereof at the present time.

3. That the hearing on the show cause order be continued pending further notice thereof.

Dated: This 16th day of March, 1944.

(Sgd.) JAMES L. HASH

Conciliation Commissioner
and Referee in Bankruptcy.

[Endorsed]: Filed Sept. 20, 1944. [49]

[Title of District Court and Cause.]

PETITION FOR REVIEW BY JUDGE

To the Honorable Conciliation Commissioner-Referee and the Judge of the Above Entitled Court:

The petition of the Federal Farm Mortgage Corporation respectfully represents that petitioner is aggrieved by the order of James L. Hash, Conciliation Commissioner-Referee, dated March 16, 1944, which orders that the property of the above named bankrupt be reappraised; that a copy of said order is attached hereto as Exhibit "A" and by this reference made a part hereof; that exception is taken to the above named order on the following grounds:

I.

That the Federal Farm Mortgage Corporation is now and at all times herein mentioned has been a corporation organized and existing under and by virtue of the laws of the United States of America;

II.

That on or about the 3rd day of September, 1935, Henry A. Paulsen and Viola S. Paulsen, also known as Viola Paulsen, his wife, made, executed and delivered to the Land Bank Commissioner a promissory note in the principal amount of \$5500.00, secured by a deed of trust on certain real property situate [50] in the County of Churchill, State of Nevada, more particularly described as follows:

The Northwest quarter of Section 12, Township 19 North; Range 30 East, Mount Diablo Base and Meridian; containing 160 acres, more or less,

which said deed of trust was duly executed, acknowledged and certified so as to entitle it to be recorded, and was on September 28, 1935, recorded in Book 15 of Mortgages at page 55, in the office of the County Recorder of Churchill County, Nevada; that said deed of trust is a first lien on the property described therein; that due to defaults under the terms of said note and deed of trust, said deed of trust was called for foreclosure on March 24, 1938;

III.

That through an Act of Congress the Federal Farm Mortgage Corporation has succeeded to the interest of the Land Bank Commissioner and is now the owner and holder of the note and deed of trust described in paragraph II hereof;

IV.

That the Federal Land Bank of Berkeley is the agent and attorney in fact of the Federal Farm Mortgage Corporation;

V.

That on or about the 6th day of March, 1939, Henry Andrew Paulsen filed a petition praying that he be afforded an opportunity to effect a composition or extension of time to pay his debts under Section 75 of the Bankruptcy Act; that the first meeting of creditors was on the 5th day of April, 1939, before James L. Hash, Conciliation Commissioner;

VI.

That the debtor failed to effect a composition or extension with his creditors and on or about the 1st day of May, 1939, was adjudicated a bankrupt under Section 75(s) of the [51] Bankruptcy Act; that the first meeting of his creditors was held before the Conciliation Commissioner-Referee on the 28th day of June, 1939;

VII.

That on the 25th day of March, 1940, a three year stay of proceedings under Section 75(s) was

signed by James L. Hash, Conciliation Commissioner acting as Referee; that said three-year stay terminated on the 25th day of March, 1943; that the moratorium provided by Section 75(s) has expired; that the bankrupt failed to pay the appraised value into court during the three-year stay, or at the end thereof; that the bankrupt failed to ask for reappraisal of his property during the three-year stay of proceedings;

VIII.

That on or about the 2nd day of April, 1943 and after the expiration of the three-year stay of proceedings, your petitioner filed with James L. Hash, Conciliation Commissioner acting as Referee, a petition and motion requesting the appointment of a trustee to sell or otherwise dispose of the property of the above named bankrupt's estate as provided for in the National Bankruptcy Act;

IX.

That on the 27th day of April, 1943, pursuant to notice duly and regularly given, a hearing was held before James L. Hash, Conciliation Commissioner acting as Referee, on the petition and motion for the appointment of a trustee; that at said hearing the bankrupt appeared in person and by his attorney; that at the conclusion of said hearing the Conciliation Commissioner-Referee determined that a trustee should be appointed; that on the 22nd day of December, 1943, the said James L. Hash, Con-

ciliation Commissioner-Referee made and entered his findings of fact and conclusions of law and order [52] appointing George W. Forbes trustee of the above entitled estate, and directing said trustee to proceed at once to sell or otherwise dispose of the property hereinabove described, in accordance with the provisions of the Bankruptcy Act;

X.

That on or about the 23rd day of September, 1943, five months and twenty-nine days after the expiration of the three-year stay of proceedings, and subsequent to the filing of the petition for the appointment of a trustee hereinabove referred to, the above named bankrupt filed a petition with **James L. Hash**, Conciliation Commissioner acting as Referee, requesting that an appraiser or appraisers be appointed for the purpose of making a reappraisal of the real property hereinabove described, together with the improvements thereon;

XI.

That on the 16th day of March, 1944, a hearing was duly and regularly held before the Conciliation Commissioner-Referee on the report and petition filed herein by the said George W. Forbes, Trustee; that at said hearing it was determined that the petition for reappraisal filed herein on September 23, 1943 by the bankrupt should first be heard and determined by the Conciliation Commissioner-Referee;

XII.

That on or about the 24th day of March, 1944, James L. Hash, acting as Referee, signed an order that the property of said bankrupt be reappraised and that the hearing on the report and petition of the trustee be continued pending further notice; that said order granting the bankrupt's petition for reappraisal is dated March 16, 1944, but was not signed by the said Conciliation Commissioner acting as Referee, until March 24, 1944;

XIII.

That Sec. 39c of the Bankruptcy Act provides that "A person aggrieved by an order of a referee may, within ten days after the entry thereof, or within such extended time as the court may for cause shown allow, file with the referee a petition for review of such order by a judge." That more than ten days has not elapsed since March 24, 1944, the date on which said order dated March 16, 1944 was entered.

ERRORS BY WHICH PETITIONER IS
AGGRIEVED

The Conciliation Commissioner-Referee erred in ordering that the property of said bankrupt be reappraised for the reason that said request and petition for reappraisal was not filed by the bankrupt until after the three-year stay of proceedings had expired.

Wherefore, petitioner on review prays that the

Conciliation Commissioner-Referee forthwith certify to the judge of the above entitled court the question here presented and that said order dated March 16, 1944, be reviewed by the judge of the above entitled court and that said judge make his order,

1. Denying the bankrupt's petition and request for reappraisal of the real property hereinabove described,

2. Directing the Conciliation Commissioner-Referee to proceed with the liquidation of the bankrupt's estate as provided by law, and

3. For such other and further relief as to the court may seem just and proper.

Dated this 1st day of April, 1944.

/s/ PERCY A. SMITH

Attorney for the Federal
Farm Mortgage Corpora-
tion,

Address: 2180 Mlivia
Street, Berkeley, Cali-
fornia.

(Affidavit of Service by Mail attached to original)

[Endorsed]: Filed May 5, 1944 [54]

[Title of District Court and Cause.]

CERTIFICATE OF CONCILIATION COM-
MISSIONER - REFEREE ON PETITION
FOR REVIEW BY JUDGE

I, James L. Hash, Conciliation Commissioner-Referee of the above entitled court, do hereby transmit the following certificate on the petition for review filed herein by the Federal Farm Mortgage Corporation on the 3rd day of April, 1944, together with a statement of the question presented, the order entered herein and the petition for review, and I hereby certify:

I.

That Henry Andrew Paulsen is the owner of certain real property in the County of Churchill, State of Nevada, which said real property is subject to the lien of the deed of trust securing a promissory note, which said deed of trust and promissory note are now held and owned by the Federal Farm Mortgage Corporation;

II.

That on the 6th day of March, 1939, Henry Andrew Paulsen filed a petition praying that he be afforded an opportunity to effect a composition or extension of time to pay his debts under Section 75 of the Bankruptcy Act; that on April 12, 1939, the Federal Farm Mortgage Corporation filed its rejection of the debtor's offer to a composition or extension, and that said creditor was the only creditor objecting thereto; that as the result

of said objection the debtor was unable to effect a composition with his creditors and was, on or about the 1st day of May, 1939, adjudicated a [55] bankrupt under Section 75(s) of the National Bankruptcy Act.

III.

That on the 25th day of March, 1940, a three-year stay of proceedings under Section 75(s) was signed by the undersigned James L. Hash, Conciliation Commissioner acting as Referee; that during said three-year stay of proceedings, the bankrupt paid into court annual rental in the sum of Five Hundred and Fifty (\$550.00) Dollars, pursuant to the Order of the Referee contained in said order staying proceedings, and fully complied with said order; that the three-year stay of proceedings terminated on the 25th day of March, 1943; that the bankrupt failed to pay the appraised value into Court during the three-year stay; that the bankrupt failed to ask for a reappraisal of his property during the three-year stay of proceedings, although, on March 24, 1943, the said debtor wrote a letter to said Federal Farm Mortgage Corporation for the purpose of attempting to settle the mortgage claim of said Federal Farm Mortgage Corporation, and thereafter there was correspondence between the debtor through his attorneys, Messrs. Withers and Edwards, the Conciliation Commissioner, and said Federal Farm Mortgage Corporation and its various representatives, all of which correspondence is set forth in full in the debtor's petition for re-

appraisal filed on or about August 2, 1943, a copy of which is hereto attached;

IV.

That on the 2nd day of April, 1943, the Federal Farm Mortgage Corporation filed with James L. Hash, Conciliation Commissioner-Referee, a petition and motion requesting the appointment of a trustee to sell or otherwise dispose of the above named bankrupt's estate in accordance with the provisions of the National Bankruptcy Act; [56]

V.

That on or about the 23rd day of September, 1943, subsequent to the expiration of the three-year stay of proceedings, the above named bankrupt filed a petition with James L. Hash, Conciliation Commissioner-Referee, requesting that an appraiser or appraisers be appointed for the purpose of making a reappraisal of the bankrupt's real property, together with the improvements thereon;

VI.

That on or about the 24th day of March, 1944, James L. Hash, Conciliation Commissioner-Referee, signed an order dated March 16, 1944, granting the bankrupt's request that the real property of the bankrupt, together with the improvements thereon, be reappraised; that a copy of said order is attached hereto;

VII.

That on the 3rd day of April, 1944, the Federal Farm Mortgage Corporation filed herein its peti-

tion for review in which it is alleged that the Conciliation Commissioner-Referee erred in ordering that the property of the bankrupt be reappraised for the reason that the request and petition for reappraisal was not filed by the bankrupt until after the three-year stay of proceedings had expired; that a copy of said petition for review is hereto attached.

The Questions Hereby Certified to the Judge of This Court Are

1. If a bankrupt fails to pay the appraised value into Court and fails to request a reappraisal within three years and a secured creditor requests the appointment of a trustee under the provisions of the last sentence of Section 75(s)(3), can the bankrupt thereafter secure a reappraisal with the right [57] redeem under the first proviso under Section 75(s) (3)?

2. Whether under the circumstances in this case, as set forth by the correspondence attached to the debtor's petition for reappraisal, the Federal Farm Mortgage Corporation is estopped to deny that the bankrupt is entitled to a reappraisal of said property?

Dated this 2 day of May, 1944.

/s/ JAMES L. HASH

Conciliation Commissioner-
Referee

[Endorsed]: Filed May 5, 1944. [58]

In the District Court of the United States of
America, in and for the District of Nevada

No. A-33-A

In Bankruptcy Sec. 75 (s)

In the Matter of

HENRY ANDREW PAULSEN,

Bankrupt.

DECISION

REVIEW OF ORDER OF CONCILIATION COMMISSIONER AND REFEREE IN BANKRUPTCY GRANTING BANK- RUPT'S PETITION FOR REAPPRAISAL

Norcross, District Judge.

The matter here presented is a Petition on behalf of the Federal Farm Mortgage Corporation to review an order made March 16, 1944, by the Conciliation Commissioner-Referee in Bankruptcy, granting the petition of the Bankrupt for a re-appraisal of his farm property which is subject to a deed of trust held by Petitioner herein, to secure the principal amount of \$5500.00, with accrued interest, which deed of trust was called for foreclosure March 24, 1938.

On March 25, 1940, Bankrupt was granted a three year stay of proceedings under Section 75(s) of the Bankruptcy Act. The property was appraised for the sum of \$3000.00. The Bankrupt failed to pay the said appraised value during the three year stay or at the end thereof. The order granting the three year extention was subject to the bankrupt paying into Court an annual rental in

the sum of \$550.00 per year which amount was so annually paid.

The questions of law certified to the Judge of this Court for review are: [59]

“1. If a bankrupt fails to pay the appraised value into Court and fails to request a reappraisal within three years and a secured creditor requests the appointment of a trustee under the provisions of the last sentence of Section 75(s) (3), can the bankrupt thereafter secure a reappraisal with the right to redeem under the first proviso under Section 75(s) (3) ?”

“2. Whether under the circumstances in this case, as set forth by the correspondence attached to the debtor's petition for reappraisal, the Federal Farm Mortgage Corporation is estopped to deny that the bankrupt is entitled to a reappraisal of said property?”

The evidence before the Conciliation Commissioner-Referee, also, discloses that during the entire time following the date of granting the three year stay of proceedings the Bankrupt was diligent in efforts to improve the property and the property was so improved. The evidence, also, discloses that Bankrupt is the owner of other property, particularly livestock, which is not subject to the deed of trust, and that he has other unsecured creditors. Bankrupt and his unsecured creditors clearly have an interest in the question of the value at which the real property might now be appraised. On the part

of the Federal Farm Mortgage Corporation it is admitted that if Bankrupt had paid into Court the appraised value of \$3000.00, during the three year stay of proceedings that it would then have petitioned for a re-appraisal upon the ground the appraisal was below the real value.

The answers to questions certified are: 1. Yes.
2. No.

Dated this 21st day of August, 1944.

/s/ FRANK H. NORCROSS

District Judge.

[Endorsed]: Filed Aug. 21, 1944. [60]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that the Federal Farm Mortgage Corporation, a corporation, hereby appeals to the United States Circuit Court of Appeals from the decision of the above entitled court made and entered herein on the 21st day of August, 1944, holding that the above named bankrupt is entitled to secure a reappraisal with the right to redeem under the first proviso of Section 75(s)(3).

Dated this 30th day of August, 1944.

PERCY A. SMITH

Attorney for the Federal Farm
Mortgage Corporation.

2180 Milvia Street

Berkeley, California. [64]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK,
U. S. DISTRICT COURT

United States of America,
District of Nevada—ss.

I, O. E. Benham, Clerk of the District Court of the United States for the District of Nevada, do hereby certify that I am custodian of the records, papers and files of the said United States District Court for the District of Nevada, including the records, papers and files in the Matter of Henry Andrew Paulsen, said case being No. A-33-A on the bankruptcy docket of said Court.

I further certify that the attached transcript, consisting of 69 typewritten pages numbered from 1 to 69, inclusive, contains a full, true and correct transcript of the proceedings in said case and of all papers filed therein, together with the endorsements of filing thereon, as set forth in appellant's Designation of Record, and appellee's Designation of Additional Portions of Record, both filed in said case and made a part of the transcript attached hereto, as the same appear from the originals of record and on file in my office as such Clerk in Carson City, State and District aforesaid.

Witness my hand and the seal of said United States District Court this 5th day of October, 1944.

[Seal]

O. E. BENHAM

Clerk, U. S. District Court.

[Endorsed]: No. 10886. United States Circuit Court of Appeals for the Ninth Circuit. Federal Farm Mortgage Corporation, a corporation, Appellant, vs. Henry Andrew Paulsen, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the District of Nevada.

Filed October 6, 1944.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 10886

FEDERAL FARM MORTGAGE CORPORA-
TION, a corporation,

Appellant,

vs.

HENRY ANDREW PAULSEN,

Appellee.

STATEMENT OF POINTS ON APPEAL AND
DESIGNATION OF RECORD

Statement of Point on Appeal

Comes now the Federal Farm Mortgage Corporation, appellant herein, and makes the following statement of the point on which it intends to rely

upon the appeal in the above entitled cause for the reversal of the decision and order appealed from, to-wit:

1. The appellee, who failed to pay the original appraised value into Court during the three-year stay and failed to request a reappraisal until six months after the expiration of the three-year stay and only after the secured creditors petitioned for the appointment of a trustee under the provisions of the last sentence of Section 75(s)(3) of the National Bankruptcy Act, is not legally entitled to have his property reappraised and to redeem under the first proviso of Section 75(s)(3) of the National Bankruptcy Act.

Designation of Record Necessary for Consideration of the Foregoing Point

1. Petition in proceedings under Section 75(a-r) of the National Bankruptcy Act filed March 6, 1939.
2. Order of Adjudication and General Reference under Section 75(s) dated May 1, 1939.
3. Order Approving Appraisal, Setting Off Exemptions, and Staying Proceedings dated March 25, 1940.
4. Petition and Motion of the Federal Farm Mortgage Corporation dated March 29, 1943.
5. Petition for Reappraisal dated August 2, 1943. Include only paragraphs numbered I and II and the prayer of this petition; omit all exhibits.
6. Findings of Fact, Conclusions of Law and Order Appointing Trustee dated December 22, 1943.
7. Order Granting Petition for Reappraisal dated March 16, 1944.

8. Petition for Review by Judge dated April 1, 1944. Omit all exhibits.

9. Certificate of Conciliation Commissioner-Referee Upon Petition for Review by Judge filed May 5, 1944. Omit Order Granting Petition for Reappraisal and all exhibits.

10. Memorandum, Opinion and Order of Judge dated August 21, 1944.

11. Notice of Appeal.

Dated this 26th day of September, 1944.

RICHARD W. YOUNG

M. G. HOFFMANN

PERCY A. SMITH

Attorneys for the Federal
Farm Mortgage Corporation
Address: 2180 Milvia Street
Berkeley, California

[Title of District Court and Cause.]

AFFIDAVIT OF MAILING

State of California

County of Alameda—ss.

Z. Tretheway, of said County of Alameda, State of California, being first duly sworn, deposes and says: I am over the age of eighteen and am not a party to the above entitled matter; that on the 26th day of September, 1944, I served a copy of Statement of Points on Appeal and Designation of Record in the above entitled matter, dated September 26, 1944, and signed by Richard W. Young, M. G.

Hoffmann and Percy A. Smith, Attorneys for the Federal Farm Mortgage Corporation, on the following persons, to-wit:

Withers and Edwards
Attorneys at Law
153 North Virginia Street
Reno, Nevada

by enclosing a copy of the same in a sealed envelope, which envelope was addressed to said persons at the address given, and depositing the same, with postage fully prepaid, in the United States Post Office at Berkeley, California, on said date; that at the time of making said deposit there was a regular communication by the United States mails between the post office of deposit thereof, as aforesaid, and the place of address, as aforesaid; that at the time of making said deposit the attorneys for appellant, the Federal Farm Mortgage Corporation, had their offices in Berkeley, California, and resided in Berkeley, California.

Z. TRETHEWAY

Subscribed and sworn to before me this 26th day of September, 1944.

[Seal]

N. HOPKINS

Notary Public in and for
said County and State.

My commission will expire April 1, 1947.

[Endorsed]: Filed Oct. 6, 1944.

